

# Exhibit D

1 UNITED STATES BANKRUPTCY COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 In re:

4 MOTORS LIQUIDATION COMPANY, et al.,  
5 f/k/a General Motors Corp., et al.,

6 Debtors.

7 Cast No.: 09-50026 (MG)

8 November 8, 2017

9 2:01 p.m.

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12  
13 DEPOSITION of HOWARD S.  
14 STEEL, held at the offices of BROWN  
15 RUDNICK LLP, 7 Times Square, New York,  
16 New York before Wayne Hock, a Notary  
17 Public of the State of New York.  
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<p style="text-align: right;">Page 14</p> <p>1 MR. WISSNER-GROSS: I'm just 2 going to -- as in earlier today, 3 I'm going to keep my objections 4 limited but I take umbrage with the 5 suggestion that the witness is 6 giving a speech. The witness was 7 attempting to respond to your 8 question. So I suggest that you 9 limit the commentary and just ask 10 questions. 11 Q. Did Mr. Martorana ever say to 12 you in these words at any time ever it 13 is no longer necessary to wait for 14 finalization of all other documents in 15 a satisfactory manner? 16 MS. NEWMAN: Objection. 17 MR. KARLAN: What's the 18 objection? 19 MS. NEWMAN: You've asked him 20 that already and the question when 21 you asked him the first and the 22 second time just now doesn't really 23 make any sense. 24 THE WITNESS: Yeah, I submit 25 on his communications that I</p>	<p style="text-align: right;">Page 16</p> <p>1 in a satisfactory manner? 2 A. No, that's entirely 3 incorrect. That's incorrect. I 4 believed that there was a meeting of 5 the minds assent on the critical terms 6 of the settlement as early as late July 7 when the settlement agreement, the 8 claims estimate order, the settlement 9 order had been fully documented. The 10 supporting documentation were finalized 11 no later than the twelfth. 12 Q. What did you think that 13 sentence that we've been focusing on in 14 this e-mail meant when you got it? 15 A. Even at that juncture I 16 viewed this as a ministerial or an 17 administrative cause because at that 18 juncture we had an agreement on the 19 settlement agreement and the settlement 20 order and the claims estimate order. 21 Q. So tell me if this is a 22 correct statement, sir. 23 The agreement -- the contract 24 that the pending motion seeks to 25 enforce was entered into as not later</p>
<p style="text-align: right;">Page 15</p> <p>1 referenced in my last answer there 2 was no such a caveat placed on the 3 signoffs. 4 Q. So you're saying he said that 5 to you in writing? 6 A. Well, he said on the twelfth 7 in writing, we have the e-mail from 8 Keith on the twelfth. On the eleventh 9 in the afternoon there was -- on 10 August 11 there was an all hands page 11 turn that Keith participated in and 12 said that the documents were final and 13 adequate without any such caveats. I 14 believe earlier than that, in 15 conjunction with the meeting called by 16 Mr. Golden, the same representation 17 that all the material terms of the 18 documentation were final and 19 satisfactory. 20 Q. Tell me if this is a correct 21 statement, sir: Did you always 22 understand from July 27 until these 23 remarks that you say you received from 24 Mr. Martorana that you were waiting for 25 finalization of all the other documents</p>	<p style="text-align: right;">Page 17</p> <p>1 than July 28; is that correct? 2 A. Yeah, my view is that we had 3 a binding meeting of the minds on all 4 the key material terms of the contract 5 by late July. 6 Q. And by late July, that 7 means -- 8 A. By late July, no later than 9 August 12. 10 Q. But no later than July 28; 11 correct? 12 A. You mean no earlier? 13 Q. I mean no later. 14 Did you have an agreement -- 15 did you have a binding contract on 16 July 28? 17 A. My view is yes. 18 Q. Thank you. 19 So when you got this e-mail 20 on July 28 and you read that sentence, 21 did you think it was meaningless? 22 A. No. Like I said, I thought 23 it was a ministerial or an 24 administrative matter. 25 Q. Can you tell me what that</p>

5 (Pages 14 - 17)

<p style="text-align: right;">Page 18</p> <p>1 means? I don't understand those terms 2 in this context. 3 A. The best way I can further 4 articulate is it that you need to give 5 one or another discussion or 6 administrative back office sort of 7 procedure. I really don't know how the 8 operations were set up between Gibson 9 Dunn and Wilmington. 10 Q. What did you think Mr. 11 Martorana was referring to when he used 12 the expression "all other documents?" 13 MR. WISSNER-GROSS: Just for 14 -- to be specific, I think there's 15 an S missing. 16 MR. KARLAN: Yeah, there is. 17 I'm giving him the benefit of the 18 doubt. 19 THE WITNESS: The other 20 documents were the supporting 21 documents. He references the 22 settlement agreement, the 23 settlement order, and the claims 24 estimate order. We had also been 25 developing a 9019 motion to approve</p>	<p style="text-align: right;">Page 20</p> <p>1 settlement order, claims estimate 2 order -- will likely come tomorrow." 3 Do you see that? 4 A. Yes. 5 (Whereupon Mr. Weisfelner 6 entered the proceedings) 7 Q. Did you -- does that -- is it 8 still nonetheless your testimony that 9 you believed you had a binding 10 agreement on July 28? 11 A. Well, if you look, he then -- 12 Q. It's just a yes or no 13 question. 14 A. I don't have to do 15 anything -- 16 MR. WISSNER-GROSS: You know 17 something, the witness answers his 18 best. We're not in court. He's 19 going to answer as he sees best. 20 MR. KARLAN: Actually, the 21 federal rules say that the 22 testimony is to be taken as if he 23 was at trial. 24 MR. WISSNER-GROSS: You cannot 25 instruct this witness how he should</p>
<p style="text-align: right;">Page 19</p> <p>1 the settlement agreement. We had 2 also been developing a notice 3 procedure for the motion and a 4 motion to approve the notice and 5 later supporting declarations 6 including Wilmington supporting 7 declaration for the motion. 8 Q. So you understood the 9 expression "all other documents" in 10 this e-mail to refer to -- tell me if 11 I'm correct, please -- to the 9019 12 motion, the notice procedure, the 13 motion to approve the notice, and the 14 supporting declarations; is that 15 correct? 16 A. I don't know. He could be 17 referring to the settlement agreement, 18 settlement order, claims estimate 19 order. 20 Q. I'm asking you what you 21 thought at the time you got the e-mail. 22 A. I don't recall. 23 Q. Do you see where he says, 24 "signoff with respect to the three 25 documents -- settlement agreement,</p>	<p style="text-align: right;">Page 21</p> <p>1 answer the question. 2 MR. KARLAN: You cannot litter 3 the record with remarks that are 4 not objections. 5 Q. Sir, if you're able to 6 answer -- 7 MR. KARLAN: I'm going to 8 withdraw the question. 9 Q. Here's a new question. 10 I'd like you to tell me 11 whether you can answer this question 12 yes or no and, if you can, I'd like you 13 to answer yes or no and, if you can't, 14 I'll move on to something else. 15 Okay? 16 Having focused your attention 17 on that sentence, is it still your 18 testimony that you believed you had a 19 binding agreement on July 28? 20 A. I believe we did have a 21 binding agreement at that time. 22 Q. Even after you read this 23 e-mail? 24 A. Yeah, Keith even sends to me 25 later in the same day updated versions.</p>

6 (Pages 18 - 21)

<p style="text-align: right;">Page 22</p> <p>1 Certain of the documents haven't 2 changed. All the material terms were 3 agreed upon at this juncture. 4 Q. Did you sign the settlement 5 agreement on July 28? 6 A. Not that I recall. 7 Q. Did you ever sign it? 8 A. Me personally? 9 Q. Yes, sir. 10 A. No. 11 Q. Why not? You had a binding 12 agreement. Why didn't you sign it? 13 A. I mean, I was fully prepared 14 to sign it. 15 Q. Why didn't you? 16 A. Well, you guys -- the GUC 17 Trust capitulated and reneged on the 18 deal. We had everything set up on a 19 desk ready to roll and send to the 20 judge as agreed to between the parties 21 and then we got whipsawed. 22 Q. I don't think you mean 23 capitulated, but I think we all know 24 what you mean. 25 Why didn't you sign the</p>	<p style="text-align: right;">Page 24</p> <p>1 that me personally didn't get to 2 signing. 3 Q. At no time between July 28 4 and August 14 did you believe it was 5 important to take care of that 6 administrative ministerial act? 7 A. Well, you'll see through the 8 e-mails that there was an e-mail on the 9 sixteenth where we followed up and said 10 we're getting signatures because we 11 had, for a very long time, felt we had 12 a binding agreement, then the 13 ministerial act was one of the last 14 brush strokes of papering everything. 15 Q. But why were you waiting so 16 long to sign? 17 MS. NEWMAN: Objection. 18 How many times are you going 19 to ask him the same question, 20 Mitch? 21 Q. I understand you were 22 impatient getting GUC Trust's 23 signature. 24 Why didn't you sign your 25 signature?</p>
<p style="text-align: right;">Page 23</p> <p>1 agreement on July 28? 2 A. Frankly, I don't recall. 3 Q. Why didn't you sign it on 4 July 29? 5 A. I don't recall. 6 Q. Why did you never sign it? 7 A. Well, we definitely were 8 under the assumption that we were going 9 to sign the agreement. All the parties 10 had agreed to all the material terms 11 and the expectation was it would have 12 been signed. 13 Q. Right, that's what's making 14 it hard for me to understand why it was 15 never signed. 16 Can you please answer my 17 question? Why did you never sign it? 18 MS. NEWMAN: Objection. 19 MR. WISSNER-GROSS: It's been 20 asked and answered now several 21 times. 22 Q. Why did you never sign it? 23 MS. NEWMAN: Same objection. 24 THE WITNESS: Right, it was a 25 ministerial act that the parties,</p>	<p style="text-align: right;">Page 25</p> <p>1 MS. NEWMAN: Objection. 2 THE WITNESS: I didn't think 3 it was necessary. We had 4 everything finalized and all the 5 terms agreed upon and that 6 ministerial act was something that 7 I assumed was done. 8 Q. Was done meaning it had been 9 signed? 10 A. Meaning that it was going to 11 be -- when we presented the documents 12 to the judge, we would gather the 13 electronic signatures affixed because 14 the parties had signed off on the 15 documentation. 16 Q. Could you please take 17 Exhibit 1 out of the pile. 18 Do you recognize this 19 exhibit, sir? 20 MR. WISSNER-GROSS: Again, 21 take your time to review the 22 document. 23 MR. STEINBERG: Mitch, can I 24 ask you to raise your voice a 25 little?</p>

<p style="text-align: right;">Page 26</p> <p>1 MR. KARLAN: I'm sorry. Will 2 do. 3 THE WITNESS: (Reviewing). 4 Sure. 5 Q. And is that your signature on 6 the last page? 7 A. Yes. 8 Q. And that's something you 9 signed under penalty of perjury? 10 A. Yes. 11 Q. And it's also your signature 12 on page eleven? 13 A. I was referring to eleven. 14 Now you want to talk about 15 twelve? It's on twelve and eleven. 16 Q. Would you look, please, at 17 interrogatory number six which appears 18 on page six and then the response 19 appears on page seven. 20 A. (Reviewing). 21 Q. Have you read that? 22 A. One second. 23 Q. Sure. Let me know when. 24 A. (Reviewing). 25 Got you.</p>	<p style="text-align: right;">Page 28</p> <p>1 Q. When you signed these 2 interrogatories under penalty of 3 perjury, were you interpreting the word 4 "executed" in interrogatory number six 5 to mean something other than place a 6 manual signature on a piece of paper in 7 ink on the agreement? 8 A. Yes, sir. 9 Q. Because that never happened; 10 correct? 11 A. Not that I'm aware of. 12 Q. During the summer of 2017, 13 were you monitoring filings made by the 14 GUC Trust with the Securities and 15 Exchange Commission? 16 A. We received -- you said with 17 the Securities and Exchange Commission. 18 Those are not the GUC Trust reports 19 filed with the bankruptcy court 20 generally. 21 Q. Would you look, please, at 22 Exhibit 7 in the pile in front of you. 23 Have you ever seen Exhibit 7 24 before? 25 A. Yes.</p>
<p style="text-align: right;">Page 27</p> <p>1 Q. When did the signatory 2 plaintiffs execute the agreement? 3 A. Well, we've been over this. 4 From the period of July 28 through 5 August 12, there are any number of 6 actions to execute or put into effect 7 or carry out the agreed terms. These 8 include the referenced page turn that 9 we discussed about Mr. Golden setting 10 up where Mr. Martorana signed off on 11 the documentation; this includes where 12 Mr. Martorana signed off that we could 13 communicate that we had reached a 14 settlement to Mr. Steinberg; this 15 includes presenting that agreement to 16 Judge Furman on the eleventh; this 17 includes the page turn thereafter; this 18 includes this signatory plaintiffs 19 signing off on August 12 and also the 20 signatory plaintiffs signing off on 21 sending the documents to GM on 22 August 14. 23 Q. Have you finished your 24 answer? 25 A. Yes, sir.</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. Did you see it on or about 2 the date it was filed? 3 A. I've got to find the filing 4 date here. 5 Q. If you look at a few pages 6 from the end, 10617. 7 A. It's dated August 14? 8 Q. Yes, sir. 9 A. I did not see it on that 10 date. 11 Q. Did you see it on the 12 fifteenth? 13 A. No. 14 Q. The sixteenth? 15 A. No. 16 Q. What is your best 17 recollection of when you saw this? 18 A. In the last few weeks. 19 Q. Would you look, please, at 20 Exhibit 3 in the pile in front of you 21 which is Mr. Weisfelner's declaration 22 and all of the exhibits to it. 23 Can you -- and feel free to 24 unclip it if that's easier for you. 25 Can you turn to Exhibit G to</p>

<p style="text-align: right;">Page 50</p> <p>1 A. Now. Well, no, I had seen 2 this document -- I had seen the 3 document yesterday, too. 4 Q. And that's the first time you 5 focused on this language? 6 A. Yes. 7 MR. KARLAN: Okay. 8 I don't think I have anything 9 further. Thank you. 10 MS. BESKIN: I'm going to have 11 a few questions, but can we take a 12 short break first? 13 MR. WISSNER-GROSS: Sure. 14 THE VIDEOGRAPHER: We're now 15 off the record at approximately 16 2:54. 17 (Whereupon a break was taken) 18 THE VIDEOGRAPHER: Back on the 19 record at approximately 2:59. 20 EXAMINATION BY 21 MS. BESKIN: 22 Q. Good afternoon, Mr. Steel. 23 You testified that there was 24 a meeting of the minds between the 25 parties to the purported settlement</p>	<p style="text-align: right;">Page 52</p> <p>1 These are the material terms. They 2 were agreed upon at that juncture. 3 Q. And the agreement to those 4 material terms was among all parties to 5 the purported settlement agreement as 6 of July 28? 7 A. To all parties? Yes. 8 Q. And was there also an 9 agreement as of July 28 as to who the 10 parties to that agreement would be? 11 A. You've got to run that by me 12 again. 13 Q. Sure. 14 As of July 28, you said that 15 there was an agreement as to all 16 material terms among all the parties; 17 correct? 18 A. Yes. 19 Q. And as of that date, was 20 there also an agreement as to who the 21 parties to the purported settlement 22 agreement would be? 23 A. Well, the signature blocks, 24 if that's what you're referring to, 25 were unchanged and agreed upon.</p>
<p style="text-align: right;">Page 51</p> <p>1 agreement on July 28. 2 Did I get that right? 3 A. Yes. 4 Q. Okay. 5 And would you agree -- you 6 said there was a meeting of the minds 7 as to all material terms; is that 8 correct? 9 A. If you're saying that's what 10 I testified to. 11 Q. Why don't I just ask the 12 question a different way. 13 Is it your testimony that -- 14 MS. BESKIN: Strike that. 15 Q. Do you believe that there was 16 a meeting of the minds between all 17 parties to the purported settlement 18 agreement as to all material terms on 19 July 28? 20 A. Yeah, the material terms of 21 the settlement agreement were that the 22 GUC Trust would pay fifteen million and 23 pay for notice costs and in exchange 24 the plaintiffs would release callback 25 claims and claims to the GUC Trust res.</p>	<p style="text-align: right;">Page 53</p> <p>1 Q. Let's take a look at -- 2 MS. BESKIN: This will be 3 Exhibit 11. 4 (Whereupon, an e-mail dated 5 August 11, 2017 was marked Exhibit 11 6 for identification.) 7 MS. BESKIN: For the record, 8 this is a document with Bates 9 beginning GUC_0001558. 10 MR. WISSNER-GROSS: Excuse me 11 one second. They were handed out 12 but we didn't get a copy. 13 Q. Mr. Steel, this is an e-mail 14 exchange with several e-mails in the 15 chain. Take as much time as you need 16 to review it but I'll tell you I'm 17 going to focus your attention on the 18 second page with Bates number 19 ending 1559. 20 A. (Reviewing). 21 Okay. 22 Q. Okay. 23 So can you take a look at -- 24 actually, just go back to the first 25 page, the Bates ending 1558. You'll</p>

14 (Pages 50 - 53)



<p style="text-align: right;">Page 66</p> <p>1 Q. There is. 2 And the question is: Do you 3 have any reason to doubt that this was 4 not the first time Ms. Norman's firm 5 was appearing on the signature block 6 given that it's clearly being inserted 7 into this blackline dated as of 8 August 11? 9 A. I really don't know. 10 MS. NEWMAN: Objection. 11 MS. BESKIN: Let's take a look 12 at another document, and I guess 13 this will be marked as Exhibit 12. 14 (Whereupon, a letter dated 15 August 4, 2017 was marked Exhibit 12 16 for identification.) 17 Q. I'm ready whenever you are, 18 Mr. Steel. 19 A. Sure. 20 Q. Do you recognize this 21 document? 22 A. Yes. 23 Q. And what is it? 24 A. It's a letter to Judge Glenn 25 dated --</p>	<p style="text-align: right;">Page 68</p> <p>1 late claims motion issues." That's the 2 first sentence. 3 Did I read that correctly? 4 A. I believe so. 5 Q. And your testimony is that 6 there was a meeting of the minds on all 7 material terms as of July 28; right? 8 A. I said as early as July 28, 9 yes. 10 Q. And yet, when you wrote this 11 letter to Judge Glenn on August 4, you 12 didn't write, dear Judge Glenn, we have 13 an agreement in principle; did you? 14 A. I did personally an earlier 15 draft and then I changed it. 16 MS. BESKIN: I'd like to ask 17 for production of that earlier 18 draft. 19 MR. WISSNER-GROSS: I take it 20 under advisement. 21 Q. I'm asking a slightly 22 different question though. 23 Which is in this letter that 24 was actually sent to Judge Glenn, you 25 didn't inform Judge Glenn that an</p>
<p style="text-align: right;">Page 67</p> <p>1 MR. GONZALES: Hey, folks, 2 give me the Bates number, please, 3 on that? 4 MS. BESKIN: Sure. Sorry. 5 GUC_0008633. 6 MR. GONZALES: Thank you, 7 ma'am. 8 THE WITNESS: It's a letter 9 to Judge Glenn dated August 4, 10 2017. 11 Q. And this is on your 12 letterhead; correct? 13 A. Yes. 14 Q. You signed it? 15 A. My electronic signature it on 16 it. 17 Q. You write on August 4, "dear 18 Judge Glenn, we write to inform the 19 court that negotiations have 20 meaningfully progressed between the 21 ignition switch plaintiffs, certain 22 non-ignition switch plaintiffs, certain 23 preclosing accident plaintiffs, and the 24 GUC Trust which may obviate the need 25 for scheduling a hearing on the initial</p>	<p style="text-align: right;">Page 69</p> <p>1 agreement had been reached in 2 principle, for example; correct? 3 A. The letter says what it says. 4 Q. Right. 5 And it doesn't say that, I 6 think we can agree on that? 7 A. At that juncture we had 8 reached an agreement on all the 9 material terms of the documentation, 10 and it is actually on that same day 11 that this is again the meeting that Mr. 12 Golden called where he asked people 13 with binding authority to get together 14 and flip the pages and cross the T's 15 and dot the I's, so it was -- the 16 material terms were finalized by this 17 time. 18 MS. BESKIN: Motion to strike 19 that answer as nonresponsive. 20 Q. I understand that -- 21 MR. WISSNER-GROSS: Excuse me, 22 are you finished? 23 MS. BESKIN: I'm going to ask 24 another question. I'm finished 25 interposing my motion, yes.</p>

18 (Pages 66 - 69)



<p style="text-align: right;">Page 90</p> <p>1 If you could turn to page 2 fifteen, section 3.1. 3 A. So this is Exhibit 3? 4 Q. Correct. And then Exhibit H 5 within there. 6 A. Okay. 7 Q. So as you know, section 3.1, 8 the first sentence of that section 9 reads, "this agreement shall become 10 effective and binding upon the parties 11 on the date on which this agreement is 12 fully executed by each of the parties;" 13 right? 14 A. I've got to turn to it. 15 Q. Did any representative -- 16 A. I've got to turn to it. 17 MR. WISSNER-GROSS: Just 18 little bit of a problem with the 19 way you're phrasing your questions. 20 Here you're just purporting to 21 recite what he set forth in the 22 first sentence of 3.1, is that the 23 point of your question? 24 MR. KARLAN: Yes. I'm just 25 confirming that I read that</p>	<p style="text-align: right;">Page 92</p> <p>1 contain the caveat that it was subject 2 to client review? 3 A. Keith said what he said in 4 that e-mail. 5 Q. I'm asking a different 6 question though. 7 Did he ever tell you that, by 8 that e-mail, he was waiving the 9 requirement of section 3.1, that it 10 would not become binding until full 11 execution? 12 A. He didn't use those words. 13 Q. Regardless of whether he used 14 those words, did he ever convey that to 15 you in sum or substance, that he was 16 waiving the requirement of section 3.1, 17 that the document not become binding 18 until it was fully executed? 19 A. No. 20 MS. BESKIN: I just have a 21 couple of more documents to get 22 through. Bear with me for a 23 moment. 24 Q. You mentioned a presentation 25 to Judge Furman.</p>
<p style="text-align: right;">Page 91</p> <p>1 correctly so that the record is 2 clear. 3 THE WITNESS: Okay. 4 Q. Did any counsel for the GUC 5 Trust ever tell you that they were 6 waiving the requirement of section 3.1, 7 that the agreement will become 8 effective and binding on the date on 9 which it is fully executed by each of 10 the parties? 11 A. No. 12 Q. Did they ever tell you that, 13 contrary to what section 3.1 says, that 14 the agreement would become binding when 15 Mr. Martorana sent an e-mail without a 16 caveat that the draft remains subject 17 to client review? 18 A. Can you repeat the question? 19 Q. Sure. 20 Did any counsel for the GUC 21 Trust ever tell you that, contrary to 22 the requirement set forth in the first 23 sentence of section 3.1, the agreement 24 would become binding upon Mr. Martorana 25 sending you an e-mail that did not</p>	<p style="text-align: right;">Page 93</p> <p>1 When was the date of that, if 2 you recall? 3 A. Sorry, August 11. 4 Q. Let's go back to your 5 August 4 letter to the court. I 6 believe that's Exhibit 12. 7 So I understand that we have 8 a disagreement as to whether or not 9 this document is subject to privilege 10 including on the grounds that it's been 11 put at issue. So that the record is 12 clear, as I discussed it your counsel, 13 I'm going to ask my question, you can 14 interpose your objections as you see 15 fit, and we'll have the issue preserved 16 for the court. 17 MR. WISSNER-GROSS: Just so 18 we're clear, I told you off the 19 record that -- and also on the 20 record, that our view is that the 21 underlying document referring to a 22 draft is privileged. I had a 23 chance to briefly confer with the 24 witness off the record on that 25 topic. I haven't had a chance to</p>

24 (Pages 90 - 93)